

Town of Lincoln

100 Old River Road, Lincoln RI

Zoning Board of Review

June 3, 2008 Minutes

Present: Raymond Arsenault, Gabriella Halmi, Arthur Russo, David Gobeille, Jina Karampetsos and Town Solicitor Anthony DeSisto

Excused: John Bart, Kristen Rao

Applications:

Estate of Maria Rose Savoie, 33 Old Oak Drive, Warwick, RI – Dimensional Variance seeking lot width relief for the construction of a single family home for property located on Church Street, Manville, RI.

AP 38, Lot 25 Zoned: RG 7

There was a notice issue on the application. Attorney for applicant requested that it be continued to the July agenda for renote and readvertisement.

Motion made by Member Gobeille to continue the application to the July agenda. Motion seconded by Member Halmi. Motion carried with a 5-0 vote.

Edward & Linda Sliney, 1159 Smithfield Avenue, Lincoln, RI –

Dimensional Variance seeking lot width and rear yard setback relief for the construction of a single family home on Branch Avenue, Lincoln, RI.

AP 2, Lot 103 Zoned: RG 7

Attorney for applicant requested asked that it be continued to the July agenda.

Motion made by Member Gobeille to continue the application to the July agenda. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Jose & Aurora Almeida, 201 Broad Street, Cumberland, RI – Special Use Permit to remove existing building and construct a five unit residential building on property located at 1683-1685 Lonsdale Avenue, Lincoln, RI.

AP 5, Lot 26 Zoned: RG 7

Attorney for applicant requested asked that it be continued to the July agenda.

Motion made by Member Russo to continue the application to the July agenda. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Scott & Christine Snyder, 748 Lower River Road, Lincoln, RI –

Dimensional Variance seeking lot width and side yard setback relief for the construction of an addition.

AP 23, Lot 137 Zoned: RS 12

Chairman Arsenault read into the record standards that need to be met for requested relief.

Applicant wants to add a dormer to the rear of the house which was built in 1860. The lot is non-conforming and they want to correct dimensions. Requested relief is because of the dormer and will not be increasing current height of the house. Submitted photo of existing house into the record as Exhibit #1. Applicant will replace full roof on the home.

Chairman read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed dimensional variances of the lot width and side yard setback relief are to clear up the pre-existing nonconformance of this parcel of land. This record lot was platted before present day zoning regulations. The Planning Board recommends Approval of this application. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan

Public Forum

Theresa Brady, 750 Lower River Road, Lincoln

Abutter asked if any gravel would be placed in the rear yard to avoid water runoff onto her property.

Applicant replied property would not be altered. She addressed the Board and asked if a condition could be in place requiring applicant to place cover on her flower bed to avoid debris from coming into her yard. Chairman replied such a condition could be put in place to avoid damage and debris and cover removed at night.

Motion made by Member Russo to grant 8'2" relief on north side of property/2' on south side/41'4" front yard lot width relief with a condition that applicant place a covering over neighbor's plantings during the day to avoid damage and removed at night and remove any debris which would fall onto her property. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**

- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property

Motion seconded by Member Halmi.

Don Peloquin, Architect for applicant addressed the Board and informed them that applicant was seeking 41'6" side yard relief and not 41'4". Member Russo amended his motion to reflect 41'6" relief. Member Halmi seconded. Motion carried with a 5-0 vote.

Paul C. D'Amore, 10 Lincoln Avenue, Lincoln, RI – Dimensional Variance seeking rear yard setback for the construction of a deck.

AP 9, Lot 61 Zoned: RL 9

Russell Hervieux, Zoning Official addressed the Board stating there was a notice problem with the application. Label on notice did not match what was listed on the Tax Assessor's field card. Town Solicitor DeSisto informed the Board that if proper notice is not sent it is a defect and it would be prudent to continue the application to the July agenda and send proper notice.

Applicant requested continuance to the July agenda. Motion made by Member Halmi to continue the application. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Gertrude Chartier, 9 Pascale Drive, Lincoln, RI – Special Use Permit to add an in-law apartment in a single family home located at 9 Pascale Drive, Lincoln, RI.

AP 11, Lot 136 Zoned: RS 12

Applicant's daughter suffers from a disability and needs 24-hour assistance with in-home care. Mother would like to move her into the existing house. Street only has four houses. Daughter cannot go out in a wheelchair and she would like to provide access for her. Applicant will be adding a kitchen, bathroom and bedroom. Accommodations will be on the first level. Applicant has hired a contractor and exterior of the house will not change.

Chairman informed applicant that if granted she would need to file an affidavit annually with the Town Clerk that the apartment is occupied by a family member and a permit would need to be reissued every five years to meet the qualifications. Applicant replied she understood the requirements.

Chairman read into the record Planning Board recommendation: Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of the Special Use Permit for the Accessory Family Dwelling Unit. The applicant proposes to improve the ground level of the existing residential house as the Accessory Family Dwelling Unit. The Planning Board feels that the special use permit

will not alter the general character of the surrounding area and will not impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

Motion made by Member Halmi to grant the application stating:

- That the Special Use is specifically authorized under this Ordinance**
- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use**
- That the granting of the Special Use will not alter the general character of the surrounding area**
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan**

Motion seconded by Member Karampetsos. Motion carried with a 5-0 vote.

Charles Bishop, 30-32 Walker Avenue, Lincoln, RI – Special Use Permit to maintain existing five unit and add two additional units to property located at 30-32 Walker Avenue, Lincoln, RI.

AP 3, Lot 171 Zoned: RG 7

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Russell Hervieux, Zoning Official informed the Board there was a notice issue for 15 Walker Avenue, Lincoln. Address on envelope did not match site card in Tax Assessor's office. He informed the

attorney for applicant of the notice issue. Attorney Shekarchi replied there was a discrepancy between the town's website and Tax Assessor's office and hand delivered notice. Submitted notarized delivered notice into the record as Exhibit #1 which corrects defective notice.

Chairman read into the record standards that need to be met for a Special Use Permit.

Applicant lives at site with wife and child and would like to build a duplex living in one unit and renting the other which is a conditional permitted use meeting all dimensional requirements for an RG 7 area.

Property will have town water and sewer and will not create any drainage issues. Technical Review Committee requests approval of this application but the front porch must be removed.

Witness

Edward Pimentel, Pimentel, Pimentel Consulting Group, 26 Avon Road, Cranston, RI

He has testified before this Board on numerous applications. Submitted his resume and report into the record as Exhibit #2. Motion made by Member Karampetsos to accept Mr. Pimentel as an expert witness. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Witness is familiar with the town ordinance and comprehensive plan

and prepared report before the Board. Applicant wants to stay in the area and the site already has a 5 unit building and is proposing another 2 unit which will be owner occupied. Approximately 75% of the neighborhood consists of single family dwellings and 25% contain 2 or more dwelling units. Slightly less than 8.7% of the neighborhood contains 3 unit structures.

The special use is specifically authorized under Section 260-67 of the ordinance. Section 260-9C permits by Special Use Permit multi family development in an RG 7 zoning district. The special use meets all the criteria for such special use. There are specific uses authorized by special use and applicant meets all dimensional requirements. The granting of the special use will not alter the general character of the surrounding area. The property is located in Lonsdale village and multi family use is permitted. The granting of the special use permit will not impair the intent or purpose of this ordinance nor the Comprehensive Plan.

Member Russo stated the site map indicates the property is in Saylesville but witness stated it was Lonsdale village. Witness replied he went by the way it was broken down in the town records. There is a map in the Comprehensive Plan that denotes boundary lines for various villages and that is the one he went by.

Witness

Daniel Campbell, PE, Level Design Group, 60 Mar Drive, Plainville, RI

Witness has testified before this Board on past applications and submitted his resume into the record as Exhibit #3. Motion made by Member Karampetsos to accept him as an expert witness. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

He is familiar with the application. This is a 23,000 sq.ft. lot with an entrance off Walker Avenue. Provisions have been made for 14 parking spaces - 2 for each unit. Some of the units have garages. Two driveways will allow for fire and emergency access. Drainage is currently non-existent but applicant plans for three infiltration structures. The drainage report shows the infiltration system will not top over. All water will be self-contained. There is also an area designated for snow removal. Dumpster will be enclosed on three sides and the property will be screened from abutter view with a four foot stockade fence.

Witness

Donald G. Morash Jr., Broker with Abbott Properties, 380 Jefferson Boulevard, Warwick, RI

He has testified before this Board on other applications. Submitted his resume and report into the record as Exhibit #4. Motion made by Member Halmi to accept Mr. Morash as an expert witness. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

He is familiar with the application and property location and feels site meets all dimensional requirements. Witness also feels proposal will

have no negative impact or effect on the area and will fit into the neighborhood as there are other multi family homes. He prepared the real estate summary which was previously submitted as Exhibit #4.

Chairman read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of the Special Use Permit for the construction of two additional units to the property located at 30-32 Walker Avenue. While the Planning Board feels that the application addresses the standards for a Special Use permit, there are several site design items that the Planning Board has concerns over. If approved, these items will be reviewed at the building permit stage. The following items are of concern. The zoning ordinance calls for screening of the parking areas from the abutting property. No screen was shown on the submitted plans. The Planning Board has serious concerns about the proposed drainage system. This system and all supporting documentation will be carefully reviewed before a building permit can be issued. The front porch of the existing building must be removed. The plans do not show the lot width. This measurement must be documented and reviewed against the zoning ordinance.

Opposed

Jessica Rincon, 38 Tucker Street, Lincoln, RI

Submitted into the record as Objector's Exhibit #1 a petition signed by abutters opposed to the application before the Board. Chairman

asked who collected the signatures. James Harrington, 7 Kilburn Avenue, Lincoln replied he did. Chair asked if he had personally witnessed each signature on the petition and he replied in the affirmative. Chair noted for the record that signatures had not been notarized. Chair read petition in its entirety into the record. Ms. Rincon stated that adding two driveways would increase traffic congestion in the area. Abutters to the area are mostly single family homes with children and no one has proved how this construction will benefit the area.

Opposed

Patricia Juber, 19 Walker Avenue, Lincoln, RI

Parking on both sides of Walker Avenue has been an ongoing problem. Can a condition be imposed for parking only on one side. Chairman informed her that she would have to take her request to the traffic bureau at town hall because this is not a condition the Board can impose.

Opposed

Eleanor Hanson, 16-18 Walker Avenue, Lincoln, RI

Walker Avenue is an old street with no curbing which causes flooding – concerned about future flooding. There is also a STOP sign that cars do not stop for. Mr. Campbell replied that applicant would be constructing three water retention basins so all water would be kept

on site. Chairman also informed Ms. Hanson that STOP sign violations and speeding should be addressed to the police or her town council representative.

Russell Hervieux, Zoning Official presented the Board with a letter he received from Kenneth and Kristen Gilbert, 31 Walker Avenue, Lincoln stating their opposition to the application.

Opposed

Richard Weibe, 28 Walker Avenue, Lincoln, RI

He is the immediate neighbor to applicant. There are single and multi family homes in the area. There are 19 properties in the area that are not in conformance and three multi family. There is one other property that is a stand alone unit at the corner of Chapel Street and Walker and is a carriage house. This is not a neighborhood with apartments – most are single family homes in a rural area. He would like to see a condition that a six foot and not four foot fence be installed and that it be installed before any construction starts. Applicant has cut about 50 feet of trees which provided privacy for his family. There was earlier discussion about whether property was in Saylesville or Lonsdale- he pays his fire district taxes in Sayles and his children attend Saylesville district school.

Jim Harrington, 7 Kilburn Avenue, Lincoln RI

There currently are two vehicles at the site that are unregistered.

Witness

Charles Bishop, 30-32 Walker Avenue, Lincoln, RI

Member Russo asked if the siding will match the existing structures. Applicant replied it will have coffee colored siding with shutters. Existing structures are white vinyl. Member Halmi asked if there was any way to match the existing color to have buildings compliment each other. Applicant replied it is his intention to match the neighborhood. They originally wanted to build a house and decided on a duplex. Applicant likes the Saylesville area and wants to raise his family there. This is a well established neighborhood and felt the application meets all the required criteria. He has good tenants and his property has not contributed to the traffic problem.

Attorney Shekarchi stated he objects to the petition being submitted as an exhibit as they signatures are not notarized.

Member Russo stated he felt the area will see improvement with the flooding because of the new drainage plan being proposed. Parking on both sides of Walker Avenue and running the STOP sign will not be an issue with 7 units. He also felt having 7 units will not be complimentary to the area with 2 structures on one lot. Member Halmi felt the character of the neighborhood will be affected because there already are single family homes and two-family homes there. Chairman concurred with both. This lot is large enough to accept two more units. The community is changing and this is a high density area. Member Karampetsos agreed with the Chairman. The applicant

has met all the requirements and his legal burden. This may not be what the neighborhood wants but the code allows what is proposed. Drainage and parking issues have all been properly addressed.

Attorney Shekarchi approached the Board and asked for a continuance to the July agenda so applicant can hire an architect and address the issues raised by the members and neighbors.

Motion made by Member Halmi to continue the application to the July agenda. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

R.H. Jergensen Construction Co. Inc., 309 Albion Road. Lincoln, RI –
Dimensional Variance seeking front yard setback for the construction
of a single family home on Albion Road at Pole 50. AP 31, Lot
96 Zoned: RS 12

Represented by: Mary Shekarchi, Esquire

Attorney addressed the Board stating the applicant was ill in Florida and could not be present. They are seeking a 10 foot variance. 20,000sq.ft. lot is on Albion Road and consists of five wetlands. Applicant has a pending application to the Department of Environmental Management. Lot is unique in that it has a 25 foot right of way owned by the State.

Witness

Daniel Campbell, PE, Level Design Group, 60 Man Drive, Plainville, RI. He submitted resume into the record as Exhibit #1. Witness has testified before this Board on past applications. Motion made by Member Halmi to accept Mr. Campbell as an expert witness. Motion seconded by Member Gobeille and carried.

He is the engineer who prepared the site plan. Lot consists of a perennial stream running through the center of the site with forest wetlands and buffers. The building is moved toward Albion Road to properly grade the property. House will have a walk out basement, sit 40 feet from the roadway and actual physical wetlands will not alter the area.

Witness

Donald G. Morash Jr., Broker for Abbott Properties, 380 Jefferson Boulevard, Warwick, RI. Submitted resume and real estate summary into the record as Exhibit #2. Witness has testified before this Board on past applications. Motion made by Member Russo to accept Mr. Morash as an expert witness. Motion seconded by Member Gobeille and carried.

He is familiar with the project and town codes. The lot size is 20,047 sq.ft. and larger than those on Brookside. Witness does not feel proposed will alter the area and it is consistent with the surrounding area. What applicant is seeking is the least relief necessary.

Chairman read into the record Planning Board recommendation:

The Planning Board recommends Approval of this application for a Dimensional Variance. The Technical Review Committee reviewed the submitted site plans and visited the site. The Planning Board determined that the layout of the proposed single family house is greatly limited due to the location of an existing stream in the backyard. The owner can only develop within the front area of the property. The Planning Board finds that the applicant presents a realistic site layout that meets the intent of the zoning and is the least relief needed. The Planning Board feels that granting this dimensional variance will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Motion made by Member Karampetsos to grant a 10 foot front yard variance stating:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**

- **The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Other:

Arthur Russo, Jr. addressed the Board stating the nomination committee had met and nominated Jena Karampetsos as the new Board Chair and Kristen Rao as Vice Chair effective July 1, 2008

Motion to adjourn made by Member Gobeille and seconded by Member Halmi. Motion carried with a 5-0 vote.

Respectfully submitted,

Ghislaine D. Therien

Zoning Board Recording Secretary